



**Date of Council Meeting:** September 9, 2013

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Through Truck Restriction on Battlefield Parkway

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**Recommendation:** Truck Restriction on Battlefield Parkway is Not Permitted

**Issue:** Lawfulness of the Through Truck Restriction on Battlefield Parkway

Restricting through truck traffic on Battlefield Parkway will violate the United States Constitution. The Constitution guarantees a right to interstate travel. This includes the right to use the highways to travel from one State to another. In the Leesburg area, the Battlefield Parkway is the main route to connect to the interstate highways, namely Route 7 and US 15. Trucks are prohibited from using King Street, which is the alternate route in Leesburg area to connect Route 7 and US 15. Currently, there is a through truck restriction on King Street between Battlefield Parkway and Catoctin Circle; Battlefield Parkway is designated as the detour route to accommodate the restriction.

Restricting through trucks on Battlefield Parkway will create difficulty for trucks to access the interstate highway. Under the Constitution, the right to access interstate highways is considered a fundamental right. A legislative body cannot burden a fundamental constitutional right without having compelling reasons for doing so. Historically, justifications such as national security and law enforcement have been considered important enough by the United States Supreme Court to justify burdening a fundamental constitutional right.

Battlefield Parkway was designed and constructed to accommodate interstate travel in general and trucks specifically. It is a four-lane road with dividers and with no entry or exits points to residences. Under the Town Plan, the Battlefield Parkway is designated as a major arterial. An arterial road's function is to handle high-speed, high volume of traffic, and to connect through traffic to major highways.

# The United States Supreme Court

## Right to Travel

*Saenz v. Roe*, 526 U.S. 489, 502 (1999): A right to travel exists under the Privileges and Immunities Clause of the Fourteenth Amendment to the United States Constitution.

*Shapiro v. Thompson*, 394 U.S. 618, 629 (1969): The right to travel requires that “all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement.”

*United States v. Guest*, 383 U.S. 745, 757 (1966): “The Constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized.”

## Need Compelling Interest to Justify Burdening the Right to Travel

*Shapiro v. Thompson*, 394 U.S. 618, 629, 638 (1969): When the government burdens a fundamental right, like the right to travel, its actions must withstand strict scrutiny. Strict scrutiny, the highest level of scrutiny, requires the government to show that the action burdening the constitutional right is necessary to promote a compelling governmental interest. If the government fails to meet this steep burden, the governmental action is unconstitutional.

*Korematsu v. United States*, 323 U.S. 214, 218-19 (1944): The United States Supreme Court ruled that national security was a compelling enough interest to justify burdening fundamental constitutional rights.

Bernadette Meyler, *Religious Expression in the Balance*, 117 YALE L.J. 186, 189 (2008): Historically, compelling interest standard has only been satisfied by governmental interests such as national security and law enforcement.

## Federal Statute, Regulation, and Guidance

23 U.S.C. § 103(b) (2011): The National Highway System is designed to “serve interstate and interregional travel and commerce.”

23 C.F.R § 658.9, App. A (2011): US 15 and the portion of Route 7 that connects to the Parkway are both part of the National Highway System.

Federal Highway Administration (<http://www.fhwa.dot.gov/planning/glossary/>):

**Arterial:** “A class of roads serving major traffic movements (high-speed, high volume) for travel between major points.” **Arterial Highway:** “A major highway used primarily for through traffic.”

## **Town Code**

### **Existing Truck Restriction on King Street**

§ 32-119. Motor trucks prohibited upon streets of town, except where specifically permitted: (a) *Prohibited*. No motor truck shall be operated in the town upon the streets or street intersections except when necessary for the purpose of receiving loads or making deliveries. (1) King Street (Route 15 Business) between Battlefield Parkway and Catocin Circle.

## **Town Plan (Adopted June, 2012)**

Section B, Town Plan Elements, Chapter 9, Transportation: Battlefield Parkway is designated as a major arterial corridor. It is a four-lane road with dividers.

Section D, Policy Maps, Roadway Network Policy Map: Battlefield Parkway is designated as a major arterial.